door. It wasn't disconnected, it was connected.
Q Correct.
A It just wasn't secured with the ring.
Q Correct. So what we're talking about is we're talking about the safety chain's connected at a point on the gallus frame, correct?
A Correct.
Q And the door is connected to a point on the gallus frame, correct?
A Yes.
Q And they are not in the exact same point?
A Yes.
Q When the boat rolls, there will be relative movement between the two?
A Yes.
Q And the amount of relative movement is a function of the sea state, correct?
A Yes.
Q It's a function of how much of the load is hanging on the door by the bag in the water, correct?
A By more the length, not by the load. The amount of lateral movement will not be affected by the load, vertical load on the door, it will be affected by the length of the pendulum, the distance between the

door and the gallus point on which it's fixed and restrained somewhat by the length of line between the net and the door. So it will, it won't freely swing out and keep on going, there is some restriction. But it's not a fixed restriction, there is movement in there. And he already had the safety chain around the chain on the door. And what happened was, as we've described and he described, the boat moved --
Q Where did he describe the boat moved? Where did you read that the boat moved and he hurt his hand?
MR. REGAN: Objection. I don't think he said that. I have it over here.
A Mr. Lima, page 40: "Was the boat rolling at the time Carlos was hooking up the door?"
"Yes, it always is. The minute you leave New Bedford to come back, it never stops."
The boat was moving, and I believe if we went through his deposition, Mr. Aguiar's deposition, he will say that the door moved away from him and the chain came taught and that is what caused the hook to open up and snap in his finger. The weight moved from where he was going to hook up. If it hadn't happened, if it hadn't come taught, if

it hadn't moved, it wouldn't have come taught.
Q Is there any other section that you rely or any other source that you get for the fact that the boat was moving at the time of the accident other than what you just read from the deposition of Mr. Lima?
A No. I believe if we went through Mr. Aguiar's own statements and deposition he will say the boat, the door moved, the boat moved, everything moved and it came taught. It just happened.
Q The door moving could be a function of somebody letting go of the brake or moving forward on the controls or both, true?
A If you let go of the brake, it's going to drop all the way down, it's not going to just move a short distance and stop.
Q You read Mr. Aguiar's deposition, did you not?
A Yes.
Q Did you read the entire thing?
A Yes.
Q You are aware that he testified that the door actually lifted up a bit and then dropped down into the water? Are you aware of that testimony?
A I understand that was his perception.
Q That is what his testimony was, correct?

A Yes.
Q Do you have any explanation of what would cause the door to move upwards relative to him other than somebody operating the winch controls?
A The movement of the boat in the seaway would give the impression standing on the side of the boat that it was moving. The boat rolling, which started this two hours ago, the boat rolling would give the perception of that suspended weight moving relative to where he was standing.
Q Even though he is standing right next to the door and he is rolling, the door is rolling, and everything is rolling, you think that he would perceive that as being the door, that what he was really doing was perceiving the roll of the boat?
A Yes.
Q How much was the boat rolling at the time of Mr. Aguiar's accident?
A In degree, I don't know.
Q What is your best estimate?
A I have no estimate of amount of roll. Enough to create the tension on the chain that he had his hand on to cause it to open up before it was secured.
Q The amount at which it would take to put tension on

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Page 137

the chain would be a function of how much slack there was in the safety chain, correct?
A And how much force was placed, lateral force was placed on the door which was swinging.
Q The basis of your claiming that there was -- Is there any way -- What is your opinion as to how far outboard the door moved relative to the rail of the boat?
A I have no idea how much it moved.
Q An inch?
A Enough to cause the chain that he had in his hand to become taught and break free before he had it secured.
Q Was that -- Do you have an opinion as to whether it was one inch?
A I do not because we don't have any evidence how far it swung after it came free. He wasn't looking at it after it came free.
Q Do you have any evidence that it did swing? Are you aware of any evidence from anyone that the door swung away from the boat?
A Mr. Aguiar himself said it moved away from him. The chain came taught.
Q Where did Mr. Aguiar say the door moved away from

Page 138

him? Where in his testimony?
A I'll have to read his deposition again, but you asked me at the beginning what my understanding of the mechanics of it was --
Q When you said "moved away," you mean moved sway laterally, correct?
A And down.
Q You would agree that he testified that the door dropped vertically?
A Laterally and down.
Q Is it your understanding that he did not testify that the door dropped?
A No, I didn't. I'm agreeing with you on that, but not just dropped, but moved away and everything came taught.
Q You base your opinion upon the fact that Mr. Aguiar testified that the door moved away from him laterally?
A And Mr. Lima said the boat was rolling and it moved. It's a combination of the facts as presented, the full sum and parcel of the whole story as told by Mr. Lima, Mr. Aguiar.
Q Do you have an opinion under this sea state whether the door would move six inches laterally from the

Page 139

side of the vessel?
A I do have an opinion as to the amount of movement it would move without being restrained.
Q Do you know if the door is hauled up to the proper position where it is now hanging on the gallus frame, how much slack would be in the safety chain?
A Once it was set?
Q If one of the doors was hauled by the main tow wire up so it's alongside the vessel and hanging in the correct position, how much slack would be in the safety chain to allow the man to attach the safety chain?
A I don't know the exact amount of slack. I haven't measured it.
Q Would it be an inch?
A Probably be more than an inch.
Q Would it be six inches?
A I don't know.
Q Would it be a foot?
A I don't think so. I don't know.
Q Would it be two feet?
A I do not think it would be very significant because the purpose of the safety chain is to prevent the movement. Now the exact amount of slack they have

Page 140

in that chain I don't know, and I would have to make inquiries of Mr. Lima and Mr. Aguiar how much slack they had in that chain at the time when everything was hooked up and secure.
Q What do you base the opinion that the purpose of the safety chain is to keep the door from swinging? What do you base that opinion on?
A That's the definition by definition of what a safety chain and stopper is for. It's not to do anything else and to prevent it from moving and keep it in a secure position.
Q Where is that definition to be found?
A Where is it written? I haven't produced any written documents, but I'm sure I could somewhere to describe to you the purpose of the safety chain. That is common knowledge what the purpose of a safety chain is. That's the definition.
Q You are saying because the part is called a safety chain, therefore the purpose of it is to stop the door from swinging, is that correct?
A From moving, from moving once it's set in place to prevent it from becoming a swinging weight which could result in injury.
Q Well, even when the safety chain is hooked up, there

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Page 141

is still a swinging weight?
A But very, very little.
Q How much -- Where is the safety chain on the FISHING VESSEL MY WAY, where is the safety chain attached to the gallus frame, what height?
A I don't know the exact height. I think I said about head height.
Q Around six feet off the deck?
A Between five and six feet.
Q What is the height at which the block is attached to the gallus frame on the FISHING VESSEL MY WAY?
A Seven or eight feet anyway.
Q What is the height of the, off the deck of the door where it attaches to the safety chain?
A When it's suspended over the side?
Q Yes.
A Probably four feet.
Q Meaning the attachment point to the chain attaches to the door is about four feet off the deck level?
A Probably.
Q Attached in point --
A Depends on the boat and depends on the door. Without setting a duplication of the event and going back in time to take those measurements, I don't

Page 142

know.
Q You would agree with me if there were two feet of slack in the safety chain and the door was moving laterally one foot, then the lateral movement of the door could not cause the safety chain to become taught?
A Under those circumstances two feet of slack with only one foot of movement, there would appear as if that would not have caused this incident.
Q So you agree if the amount of slack in the safety chain exceeded the amount of lateral movement of the door, then if that is true, then lateral movement cannot account for a tightening of the safety chain? Do you agree with that?
A You don't have strictly lateral movement in that dynamic. There is lateral and vertical movement at the same time. As the boat rolls, the suspended door moves outboard and down by the movement of the boat rolling down. The boat doesn't roll on a fixed axis, it rolls and dips.
Q And the gallus frame rolls and dips?
A And the door rolls, swings out and dips.
Q Do you agree with me that if the amount of slack in the safety chain exceeds the amount of lateral

Page 143

movement of the door, then the roll of the vessel cannot account for a tightening up of the safety chain?
A Well, I believe your question just answered your own question. I don't think I need to answer. There is no answer to that.
Q Okay.
A If you had a ten-foot chain, the hypothetical you are giving is you have answered it yourself.
Q So if you have a two-foot chain and one foot of lateral movement, you are not going to tighten up on that chain, correct?
A You shouldn't, all things being equal.
Q If you only have one inch of slack and one foot of lateral movement, you might get some tightening up, correct?
A Under those hypotheticals that I do not agree existed, then I would say you are perhaps right.
Q Do you have an opinion as to the proper amount of slack on a safety chain on a commercial fishing vessel such as the MY WAY?
A The amount of the slack necessary to handle the chain safely and secure the chain would be subject to the seamanship of the captain and crew when he

Page 144

set the amount of chain for their own purposes and their own boat. There is no set amount. It cannot be described in inches, it can only be described as suitable for its intended purpose and adequate for the intended circumstances.
Q Do you believe if a safety chain is getting taught in a two- to three-foot sea, there is inadequate amount of slack in that safety chain?
A No, I would not agree.
Q Do you believe that the safety chain, that no matter how much slack you put in the safety chain, as long as you are in the ocean there are going to be times when it's going to tighten up under any weather conditions?
A Any time you are working with weights, chains and hooks, you have to be careful for your hands and fingers, you have to be observant and have to be diligent and you have to be cautious.
MR. ANDERSON: Would you read the question.
*[The last question was read.]
THE WITNESS: I believe I answered it.
MR. ANDERSON: I don't think I got an answer. I'm going to ask for an answer to the